

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN ASSEMBLY JUNE 12, 2013

AMENDED IN SENATE APRIL 10, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 262

Introduced by Senator Monning

(Principal coauthor: Assembly Member Achadjian)

February 13, 2013

An act to amend Section 7068.1 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 262, as amended, Monning. Contractors.

The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law authorizes an applicant for a license to qualify the applicant's knowledge and experience with a responsible managing officer, employee, member, or manager who has certain qualifications. The person qualifying on behalf of an individual or firm is responsible for exercising direct supervision and control of his or her employer's or principal's construction operations as necessary to secure full compliance with the Contractors' State License Law and the regulations of the Contractors' State License Board relating to construction operations.

This bill would, *instead, make the qualifying person responsible for exercising that direct supervision and control to secure compliance with that law and those regulations. The bill would make a violation of these provisions grounds for disciplinary action, and a misdemeanor*

punishable by imprisonment in a county jail not to exceed 6 months, by a fine of not less than \$3,000, but not to exceed \$5,000, or by both that imprisonment and fine. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7068.1 of the Business and Professions
2 Code is amended to read:

3 7068.1. (a) The person qualifying on behalf of an individual
4 or firm under paragraph (1), (2), (3), or (4) of subdivision (b) of
5 Section 7068 shall ~~exercise~~ *be responsible for exercising* that direct
6 supervision and control of his or her employer's or principal's
7 construction operations ~~as is necessary~~ to secure full compliance
8 with this chapter and the rules and regulations of the board ~~relating~~
9 ~~to the construction operations~~. This person shall not act in the
10 capacity of the qualifying person for an additional individual or
11 firm unless one of the following conditions exists:

12 (1) There is a common ownership of at least 20 percent of the
13 equity of each individual or firm for which the person acts in a
14 qualifying capacity.

15 (2) The additional firm is a subsidiary of or a joint venture with
16 the first. "Subsidiary," as used in this subdivision, means any firm
17 at least 20 percent of the equity of which is owned by the other
18 firm.

19 (3) With respect to a firm under paragraph (2), (3), or (4) of
20 subdivision (b) of Section 7068, the majority of the partners,
21 officers, or managers are the same.

22 (b) Notwithstanding paragraphs (1) to (3), inclusive, of
23 subdivision (a), a qualifying individual may act as the qualifier for
24 no more than three firms in any one-year period.

25 (c) The following definitions shall apply for purposes of this
26 section:

1 (1) “Firm” means a partnership, a limited partnership, a
2 corporation, a limited liability company, or any other combination
3 or organization described in Section 7068.

4 (2) “Person” is limited to natural persons, notwithstanding the
5 definition of “person” in Section 7025.

6 (d) The board shall require every applicant or licensee qualifying
7 by the appearance of a qualifying individual to submit detailed
8 information on the qualifying individual’s duties and
9 responsibilities for supervision and control of the applicant’s
10 construction operations.

11 (e) Violation of this section shall constitute a cause for
12 disciplinary action and shall be punishable as a misdemeanor by
13 imprisonment in a county jail not to exceed six months, by a fine
14 of not less than three thousand dollars (\$3,000), but not to exceed
15 five thousand dollars (\$5,000), or by both the fine and
16 imprisonment.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.